

REMARKS

The applicant has restored the claim set to the wording as it existed as of the amendment filed on August 4, 2003, and has canceled un-elected claims 10, 20, and 30, without prejudice or disclaimer.

In the response of August 4, 2003, the applicant amended the elected claims to make clear that they refer to "routings" of actual user accesses to the server. The applicant also pointed out that the elected claims relate to measurement of the performance of "communications" between a server and users.

In the action dated October 23, 2003, the examiner rejected the applicant's position and contended that Boyd taught that an access log could capture "routings of actual user access to the selected server" citing table 1, column 4, line 51 of Boyd. That line of the Boyd patent refers to "top paths through site". Apparently the examiner has inferred that "paths through the sites" meets the claim phrase "routings of actual user access to the selected server".

The applicant disagrees. The routings to which the applicant's claims refer are, in some examples, of the kind discussed at page 5, lines 6 et seq., of the applicant's description, routes through a communication network leading to the server. The reference to "paths through site" in Boyd, by contrast appears to refer to successions of web pages of a website to which a user has navigated. Such paths through a website are not and would not have made obvious the routes recited in the applicant's claims.

All of the claims are patentable.

BEST AVAILABLE COPY

Applicant : Bickerstaff, et al.
Serial No. : 09/471,964
Filed : December 23, 1999
Page : 14

Attorney's Docket No. 10559-096001

Applicant asks that all claims be allowed in view of the amendment to the claims. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10559-096001.

Date: _____

4/20/4

Respectfully submitted,



David L. Feigenbaum
Reg. No. 30,378

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
20841989.doc

BEST AVAILABLE COPY